

Official Comm. of Unsecured Creditors v. Regions Bank (In re Camtech Precision Mfg., Inc. et. al)

CASE NO: 10-22760

ADV CASE NO: 10-03479

Camtech Precision Manufacturing, Inc. (“Camtech”), a New York corporation authorized to transact business in Florida, and Avstar Fuel Systems, Inc. (“Avstar”), a Florida corporation, and R&J National Enterprises, Inc. (“R&J”) (collectively, “the Debtors”) became indebted to Regions Bank (“Regions”). Regions filed a series of UCC-1 financing statements in both Florida and New York. The Florida UCCs and the New York UCCs list only R & J as the Debtor in the debtor box on the first page of each UCC. There was no direction in the additional debtor box on the first page of each UCC to look at the attachment listing additional debtors, so neither Camtach nor Avstar are listed on the first page of the UCC-1. The Debtors filed for bankruptcy on May 5, 2010. Thereafter, Regions asserted a secured claim in the amount of \$4,153,137.79, maintaining that it had a perfected security interest in substantially all of the Debtors' personal property. The parties stipulated that searches of the Florida and New York UCC records under “Avstar Fuel Systems, Inc.” and “Camtech Precision Manufacturing, Inc.” do not disclose indexed UCC–1 financing statements naming Regions as a secured party as of the Petition Date.

The Unsecured Creditors Committee (“Plaintiff”) sought a summary determination that Regions failed to properly perfect its security interest in the assets of Camtech and Avstar Fuel, thereby rendering Regions an unsecured creditor, rather than a secured creditor, with respect to those assets. Plaintiff also sought disgorgement of adequate protection payments made to Regions.

The Court found that Regions' UCCs were “seriously misleading” and therefore ineffective to perfect a security interest in the assets of Camtech and Avstar, rendering Regions an unsecured rather than a secured creditor. The Court ordered Regions to disgorge all Adequate Protection Payments it received. Furthermore, because the filing officer has no duty to look to an area other than the debtor boxes to determine the correct name of the debtor under which to index the financing statement, the Court rejected Regions’ argument that its UCCs were properly filed, but that both the New York and Florida filing offices mis-indexed the UCCs.